



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, First Regular Session*

**AMENDED**  
FACT SHEET FOR H.B. 2707

probation failure reduction incentive payments

Purpose

Establishes probation success incentive payments (county incentive payments) and statewide probation success incentive grant payments (statewide incentive payments). Requires the counties to use county and statewide incentive payments to improve supervision and rehabilitation services for probationers and outlines incentive payment calculation, distribution and reporting requirements.

Background

The presiding judge of each county superior court must appoint a chief adult probation officer who is responsible for hiring deputy adult probation officers to provide presentence investigations and supervision services to the court ([A.R.S. § 12-251](#)). Adult probation officers must: 1) make and file a complete record of persons placed under suspended sentence by the court and of all reports made to the officer; 2) exercise general supervision and observation over persons under suspended sentences; 3) serve warrants, make arrests and bring persons before the court who are under suspended sentences; 4) investigate cases referred to the officer by the court; 5) secure and keep a complete identification record of every person released under a suspended sentence; 6) obtain and assemble information concerning the conduct of persons placed under a suspended sentence and report the information to the court; 7) bring defaulting probationers into court as necessary; and 8) monitor the payment of restitution ([A.R.S. § 12-253](#)). An adult probation officer is prohibited from supervising more than 65 adults on standard probation at one time ([A.R.S. § 12-251](#)).

The Arizona Supreme Court administers state aid for probation services ([A.R.S. § 12-261](#)). A presiding judge of a county superior court may submit a plan to the Arizona Supreme Court to improve, maintain or expand juvenile probation services, or to achieve or maintain the average adult probation case supervision requirement ([A.R.S. § 12-262](#)). Upon approval of a plan, the Arizona Supreme Court enters into a funding agreement with the county and must make payments to the county as necessary to carry out the agreement ([A.R.S. § 12-263](#)). A county with a population of more than 2,000,000 persons is ineligible for state aid for probation services ([A.R.S. § 12-269](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires the Administrative Office of the Courts (AOC) to calculate a county incentive payment for each county for the most recently completed fiscal year and proportionately allocate the incentive payments.

2. Specifies that a county incentive payment is equal to the number of probationers prevented from entering prison compared to the county-specific historical baseline, multiplied by 50 percent of the marginal cost of incarceration.
3. Requires the AOC to calculate a statewide incentive payment that equals the number of probationers successfully prevented from entering prison statewide compared to the statewide historic baseline, multiplied by 25 percent of the marginal cost of incarceration.
4. Requires the AOC to deposit the statewide incentive payment into a fund established for the purposes of recidivism reduction and probation improvement.
5. Requires a board consisting of the chief probation officer from each county to make statewide incentive payment distribution decisions.
6. Requires a county chief probation officer to be recused from awarding statewide incentive payments to their own department.
7. Requires each county to use statewide and county incentive payments to improve supervision and rehabilitation services for probationers, including:
  - a) implementing and expanding evidence-based practices for risk and needs assessments for individualized programming;
  - b) implementing and expanding intermediate sanctions, including mandatory community restitution, home detention, day reporting, restorative justice programs and work furlough programs;
  - c) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs and job training and employment services;
  - d) recognizing and rewarding probation officers in adult probation departments whose work has advanced the implementation of evidence-based practices or has contributed to the department's recidivism efforts;
  - e) paying for continuing education and training that focuses on evidence-based practices for probation officers or probation staff; and
  - f) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.
8. Requires the AOC to allocate county incentive payments to each county for distribution to the county's adult probation department to implement the outlined probation supervision and rehabilitation services.
9. Specifies that the statewide and county incentive payments supplement, rather than supplant, any additional state or county appropriation for a county adult probation department.
10. Requires a county to distribute any received statewide and county incentive payments to its county adult probation department for probation improvement and recidivism reduction funding activities.
11. Allows a county to retain up to 15 percent of allocated incentive monies for administrative and data purposes.

12. Requires a county, within 60 days of receiving county or statewide incentive payments, to make the incentive payments and any interest available to the county's adult probation department for probation programming implementation.
13. Requires a county adult probation department to maintain a complete and accurate accounting of all monies received from incentive payments.
14. Requires the Director of the Arizona Department of Corrections (ADC), at the end of each fiscal year, to calculate the marginal cost of incarceration for the fiscal year and provide that information to the AOC.
15. Requires the marginal cost calculation to consider the average length of stay in prison and variable correction costs such as health care services, food and clothing.
16. Requires the AOC, at the end of each fiscal year, to gather data, calculate and report for each fiscal year:
  - a) the probation failure rate for the state and each county;
  - b) an estimate of the number of adult probationers the state and each county successfully prevented from failing probation; and
  - c) an accounting of the current total population of probationers for the previous three years.
17. Specifies that the baseline probation failure rate equals the average number of adult probationers who failed to successfully complete a term of probation during calendar years 2008 and 2015 and FY 2021 as a percentage of the number of probationers who successfully completed a term of probation during those years.
18. Specifies that the number of adult probationers who failed to successfully complete a term of probation includes a probationer whose:
  - a) probation was revoked for a new crime or technical violation; and
  - b) whereabouts are unknown, and an arrest warrant was issued for the probationer during the fiscal year.
19. Requires the AOC, if data of sufficient quality and type is not available, to use the best data available and a methodology that is as similar as possible to the statutory methodology when calculating probation success rates.
20. Requires the AOC to include an estimate of the total monies that will be held and administered in the coming fiscal year as part of the proposed judiciary budget.
21. Instructs a county board of supervisors (county BOS) to periodically provide oversight to ensure that disbursed monies are used as statutorily prescribed.
22. Requires each county adult probation department to define and track the following outcome-based measures the:
  - a) percentage of probationers who are supervised in accordance with evidence-based measures;
  - b) specific eliminated supervision policies, procedures, programs and practices;
  - c) percentage of probationers who successfully complete the period of supervision;
  - d) number of probation absconders who are located each year and the disposition of their case; and
  - e) monies received by each adult probation department.

23. Requires each county adult probation department to submit an annual written report to the AOC, the county BOS and the Joint Legislative Budget Committee (JLBC) that accounts for monies received from county and statewide incentive payments and evaluates the effectiveness of the program.
24. Directs the AOC, beginning July 1, 2024, to annually submit a comprehensive report on the implementation of county and statewide incentive payments that includes:
  - a) the effectiveness of the programs based on the probation department reports;
  - b) the percentage of adult probationers whose supervision was revoked;
  - c) the percentage of probationers who were convicted of criminal offenses during the term of supervision;
  - d) the impact of the incentive payments allocated to enhance public safety by the reduced percentage and number of probationers who returned to prison, absconded or whose supervision was revoked for violations or new convictions;
  - e) recommendations regarding resource allocations or additional collaboration with other governmental entities; and
  - f) the number of probationers whose supervision was revoked solely for a violation of the terms of probation and the number of probationers whose supervision was revoked due to a new offense.
25. Defines *baseline probation failure rate*, *evidence-based practices*, *marginal cost of incarceration* and *probation programming*.
26. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Renames the probation failure reduction incentive payments to the probation success incentive payments (county incentive payments) and calculates the county incentive payments for the most recently completed fiscal year, rather than calendar year.
2. Specifies that a county incentive payment equals the numbers of probationers successfully prevented from entering prison in a county multiplied by 50 percent, rather than 45 percent, of the marginal cost of incarceration.
3. Requires the AOC to calculate a statewide incentive payment that equals the number of probationers successfully prevented from entering prison statewide compared to the statewide historic baseline, multiplied by 25 percent of the marginal cost of incarceration.
4. Requires the AOC to deposit the statewide incentive payments into a fund established for the purposes of recidivism reduction and probation services improvement.
5. Requires a board consisting of the chief probation officer from each county to make statewide incentive payment funding decisions and requires a chief probation officer to recuse themselves from awarding grants to their own county.
6. Modifies the list of funding activities for improving probation services and recidivism reduction.

7. Requires the AOC to allocate the county incentive payments to each county for distribution to the county adult probation department to implement the outlined probation improvement and recidivism reduction funding activities.
8. Allows, rather than requires, a county to retain up to 15 percent of allocated incentive payments for administrative and data collection purposes.
9. Increases, from 30 to 60 days, the deadline for a county to make incentive payments available to the county adult probation department after the county receives a statewide or county incentive payment.
10. Requires the Director of ADC to calculate the marginal cost of incarceration for each fiscal year at the end of each fiscal year, rather than calculating the cost for each calendar year at the end of each calendar year.
11. Modifies the factors the Director of ADC must take into account when calculating the marginal cost of incarceration.
12. Requires the AOC to gather, calculate and report the data necessary for calculating incentive payments for each fiscal year at the end of each fiscal year, rather than calendar year.
13. Requires the AOC to calculate a probation failure rate and an estimate of the number of adult probationers successfully prevented from failing probation for the state and each county.
14. Specifies that detention must be 14 days or longer to qualify as probation failure.
15. Specifies that the baseline probation failure rate for the state and each county equals the average number of adult probationers who failed to successfully complete a term of probation during calendar years 2008 and 2015 and FY 2021 as a percentage of the number of probationers who successfully completed a term of probation during the same period.
16. Requires each county adult probation department to define and track the number of absconders located each year and the disposition of each case.
17. Requires the county adult probation department annual report to be submitted to the JLBC, rather than ADC, and include an accounting of statewide incentive payments received.
18. Delays the annual report to the Legislature and the Governor by one year.
19. Redefines *baselines probation rate* and requires the baseline probation rate to be calculated statewide.
20. Removes the delayed effective date.

House Action

CJR	2/17/21	DPA	9-0-0-0
3 <sup>rd</sup> Read	2/24/21		59-0-1

Senate Action

APPROP	3/9/21	DPA	9-0-1
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Prepared by Senate Research

March 17, 2021

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